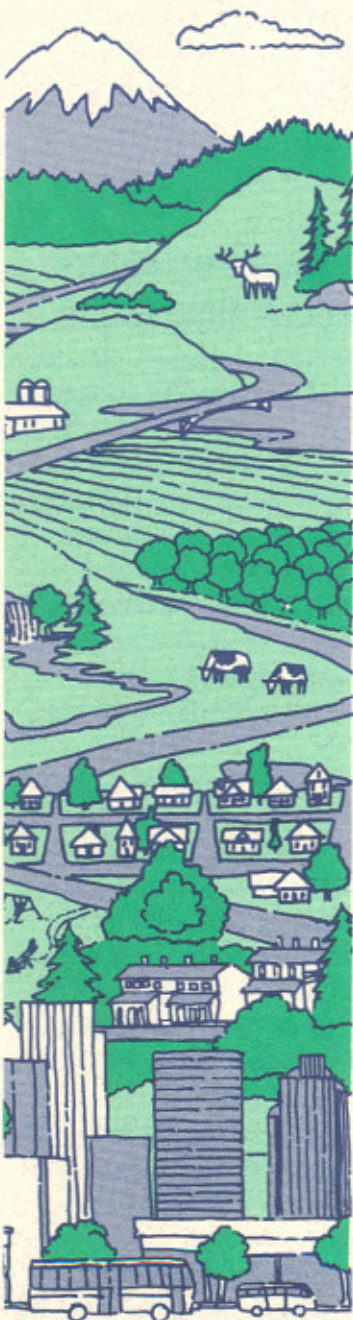


Washington State Dept. of
Community Development

*Stronger Communities
For a Better Washington*



Governor's task force issues first regulatory recommendations



Karen Lane
Task Force Chair

The preliminary recommendations of the Governor's Task Force on Regulatory Reform announced in December lay out ways the state can simplify the way it does business.

Developed to be presented to Gov. Mike Lowry and the

Washington State Legislature, the recommendations are the first step in the work of the task force. Another report will be prepared late in 1994.

"The task force accomplished a tremendous amount in its work this year," said Karen Lane, chair of the task force. "It made strong recommendations and reached consensus on difficult issues. The task force also laid a course of action for future work."

The task force recommended:

- The Legislature's standing committees review all existing grants of authority and purpose statements and, where appropriate, propose changes.
- Legislation granting rule-making authority to agencies include specific direction to the agencies.
- "Regulatory notes" on proposed legislation be prepared as part of committee bill reports.
- Agencies must consider criteria adopted by the task force when adopting rules.
- The governor oversee the use of emergency rule-making authority.
- The Washington State Joint Administrative Rules Review Committee be strengthened.

- The Office of Financial Management monitor regulatory reform efforts by state agencies including providing a hotline for gathering information from the public.

On integration of the Growth Management Act and State Environmental Protection Act, the task force recommended:

- Requiring local governments to establish time periods for issuing permit decisions when based on completed applications found to be consistent with adopted GMA plans and regulations.
- Establishing a subcommittee to study SEPA, GMA, the Shorelines Management Act, and other land use and environmental laws to determine how environmental protection, land use, appeals, and litigation processes can be integrated. The subcommittee also will review permit processes.

Procedural changes to simplify SEPA/GMA appeal procedures were recommended. The task force also suggested the departments of Ecology and Community Development adopt rules clarifying features for a GMA-related programmatic environmental impact statement that will satisfy GMA and SEPA compliance. A project to further support GMA/SEPA integration is to be developed. The task force supports additional state funding for local governments for implementation of the GMA during 1994.

During 1994, the task force will examine regulations and establish a subcommittee to study market and performance incentives in regulatory work rather than command and control approaches.

For a copy of the task force's report, contact the task force staff at 206-586-5344.



About Growth

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GMA is the key to regulatory reform

By Mike McCormick
 Assistant Director for Growth Management

The recent regulatory reform conference, "Do the Bright Thing — Effective Local Land Use Regulatory Systems," clearly set out the challenges facing local governments as they take on development regulation work.

As Karen Lane, chair of the Governor's Task Force on Regulatory Reform, said "Local and state governments are at a crossroads today. We need to take advantage of the tremendous opportunity the GMA offers as new regulations are adopted to conform to the new comprehensive plans. Regulatory streamlining is a big part of that."

Although revising development regulations is a difficult task, I am and others are encouraged by the reports at the conference of local governments who are having successes. Pierce and Thurston counties and the cities of Bellevue and Seattle have made progress in revamping their permit processes, which has set the stage for their GMA review of development regulations.

DCD's procedural criteria suggest each county or city planning under the GMA develop a detailed strategy for carrying out its comprehensive plan that includes regulatory measures to be used to apply the plan. We see this as the critical step needed to implement the permit processing goals in the GMA.

The procedural criteria suggest that a conscious effort be made to address the requirements of other existing laws related to the GMA in the development-regulation review process. We continue to explore ways to satisfy those requirements through consolidated and coordinated review at the local level.

DCD is preparing a draft guidebook on development regulations that will be ready by the end of the year. We are also preparing a review strategy for development regulations. We will keep you posted on the nature of that review and the requirements that will need to be met.

This is the last time I will have the opportunity to address you as the assistant director for DCD's Growth Management

Division. I will be retiring at the end of December. It has been a challenging and rewarding opportunity to work in this growth management effort. My 25 years with the department also have offered many opportunities to work on a variety of serious issues facing local governments.

I plan to stay active in the growth management arena. I'll also be devoting more time to enjoying more of our state's abundant recreational opportunities.

Thank you for your support and friendships over the years. It is hard for me to leave state government, but it is time for new challenges and opportunities. I wish you the best.

Planners issue regulatory reform recommendations

Washington's city and county planning directors have issued a report on regulatory reform.

At the local level, the planners recommend: reducing the number of conditional use processes needed; delegating permit decisions on items such as subdivisions to administrators and hearings officers rather than elected policy makers; developing more uniform standards for environmentally sensitive areas; and integrating GMA and SEPA.

At the state level, the planners suggest: reducing state involvement in the local permit process; developing a coordinated agency response to the GMA as soon as possible; coordinating the Shoreline Management Act and the State Environmental Policy Act with the GMA; simplifying the SEPA appeals process; and coordinating state facilities planning to improve the siting of difficult to site land uses.

The report was issued by the Washington City Planning Directors Association and the Washington State Association of County and Regional Planning Directors.

To obtain a copy, call Paul Roberts at 206-259-8731, Roberta Lewandowski at 206-556-2444, or Jerry Litt at 509-884-1511.

Regulatory reform conference a hit

More than a dozen regulatory reform speakers at a recent conference focusing on local land use regulations agreed making local ordinances more "user friendly" is an extremely tough task, but several success stories show some jurisdictions are already meeting the challenge.

Thurston County is putting a more customer-oriented permit system into place. A work group found the permit process was not out of control, just outdated, said Mike King, Thurston County senior planner. It asked why couldn't the county have a Nordstroms-like customer service system.

Thurston County now has a permit assistance center, a single place where permit applicants can apply for permits and pay fees.

Conference speakers Matthew A. Terry, director of Bellevue's Department of Community Development, and Debby Hyde, Pierce County planning director, also described efforts to streamline the permit process in their jurisdictions.

Conference keynote speaker Karen Lane urged local government representatives to use the opportunity the GMA offers to examine regulations as land use ordinances are reviewed to make them fit with comprehensive plans.

Lane, chair of the Governor's Task Force on Regulatory Reform, said testimony before the group indicated people want regulations that are clear, timely, fair, coordinated, and targeted so they address the circumstances.

Mitch Rose, spokesman for the Oregon Land Conservation and Development Commission, said Oregon has a standard deadline for permits, 120 days from the time of application. This includes the local appeal process.

Oregon also has established a Land Use Board of Appeals that hears all land use appeals. "It has greatly speeded up the decision process," said Rose.

More than 250 people attended the regulatory reform conference in Tukwila. It was sponsored by the Association of

Washington Cities, planning organizations, DCD, and the Washington State Association of Counties.

SWIS grant aids regulatory reform effort

By Terry Galvin
Whatcom County Senior Planner

Development pressures over the last five years have triggered a number of changes that have transformed Whatcom County from a historically rural and stable community to one that is struggling for control of its identity and future.

One of the most typical responses from local county government in this setting is to establish additional regulatory restraints, particularly in the area of environmental protection.

Whatcom County has received a State Wetlands Integration Strategy grant to begin a "regulatory reform" initiative that will address three important components of government functions.

First, we will attempt to integrate all of the elements of our environmental protection policies, regulations, and standards into a single, comprehensive, and consistent protection program. We will be looking closely for duplication, conflicts, unclear regulations/policies, flexibility, and accountability.

Another component is the recognition of the limitations of Whatcom County government to administer and enforce the protection programs. This analysis will result in concrete recommendations for program change.

Next, we will work on streamlining the permit process with the following objectives: one-stop service; concise and understandable permit information and instructions; clear and reasonable permit requirements; and an acceptable permit processing time period.

Finally, based upon the above results, staffing adjustments will be made to more efficiently implement these recommendations.

A reminder about draft plans

DCD is to receive five copies of draft comprehensive plans and one completed DCD plan checklist along with any SEPA documents at least 60 days prior to the planned adoption of the plan.

At the same time the plans are sent to DCD, a copy should be sent to each of the state agencies on DCD's agency list. If you don't have a copy of the agency list, call 206-753-2222, SCAN 234-2222.

After the comprehensive plan is adopted, DCD is to receive five copies of the final plan as adopted and copies are to be mailed to state agencies.

Skykomish, Carnation, Clyde Hill, Tacoma, Bellevue, and Anacortes have adopted GMA comprehensive plans. Draft plans from La Conner, Bothell, Wenatchee, Eatonville, Yarrow Point, and Beaux Arts also have been submitted to DCD.

In the past three and a half years, cities and counties have made tremendous progress in fulfilling the goals of the GMA, said Mike McCormick, DCD assistant director. "1994 is a pivotal year to establish confidence in local government's plans."

With tight budgets and competition for funds, there may be a tendency to begin reallocating resources committed to comprehensive planning to other critical local needs, McCormick added. "Local governments should carefully assess the needs of their community to move from the planning stage to actually implementing the policies called for in the plans."

As development regulations are being reviewed, local governments need to take on the challenge of regulatory reform. "The legacy of all our efforts rests in how we proceed, especially in the coming calendar year."

Development regulations guidebook is available

A draft guidebook for local governments on development regulations is available.

The guide features regulations for the fictional city of Prospect, the subject of a previous guidebook, *Small Cities Guide to Comprehensive Planning*. How to incorporate regulatory reform or "streamlining" also will be included.

Interested groups and individuals will have the opportunity to review drafts of the guidebook.

"The GMA's requirement that development regulations match with comprehensive plans can help local governments with regulatory reform efforts," said Mike McCormick, assistant director for the Growth Management Division. "This is a tremendous opportunity to improve local land use ordinances."

To receive a copy of the draft, call 206-753-2222, SCAN 234-2222.

Rural element draft guidebook is available

DCD's guidebook on the rural element is now in final form. A draft also is available of the guidebook on phasing of growth.

Call 206-753-2222, or SCAN 234-2222, to request a copy.

Pierce County improves permitting

By Debby Hyde
Pierce County Planning Director



Your process is being criticized. Complaints are coming in. But what's the real problem? As with virtually all agencies, Pierce County's Planning

and Land Services Department discovered some of the criticism indicated real problems that needed to be resolved, while others were just perceptions that needed to be corrected.

Through a multi-faceted review process PALS identified some of the major issues centered around the duplication of efforts; overlapping areas of authority; unclear regulations and policies; lack of support for staff by management; the need for predictability; the need for consistency; and how to handle fluctuations in workload.

The process is at times slow and frustrating, but the results are paying off. The community is beginning to talk about the improvements. There is a commitment to continue to refine the process from the top, and most importantly from the department staff, which is the only way to ensure further improvements.

The commitment to resolving the issues was shared by both the county council and the county executive. They were willing to make major changes in the way the county does business, including changes to the county organization by realigning areas of responsibility and restructuring the executive departments into four functional groupings.

The Planning and Land Services Department is aligned with Public Works, the Utilities (sewer), and the Parks and Recreation departments to form a grouping called Operations. Those departments report to the county executive through an executive director of operations. Within this grouping, all development related issues under the county's authority can be addressed.

Each of the directors is committed to the success of Operations and thus problems, such as the duplication of efforts, are more easily resolved than when each department operated autonomously.

Within PALS, staff have been positioned in teams to handle land use applications by geographic areas of the county. Each team consists of a code administration planner, a resource management planner, a wetland specialist, an inspector, and a development engineer. These teams are physically located together, and they use each other to help insure the projects are thoroughly reviewed.

To help with predictability, PALS has identified turnaround times for each of the review functions within the department. Those timelines are publicized so that the applicants know what to expect.

When the timelines aren't met, PALS has set up a process so the applicant can contact the appropriate supervisor and the review will be completed within two days using overtime. This program has been in effect for several months and no calls have been received about a missed deadline.

Problems with the regulations are being addressed during the implementation phase of the GMA. PALS is using staff, organized groups, ad hoc committees, and focus groups to identify where the problems are within the regulations.

Regulatory reform conference summary ready

Copies of a conference summary from the recent regulatory reform conference, "Do the Bright Thing — Effective Local Land Use Regulatory Systems," is available from the Growth Management Division.

Call 206-753-2222, or SCAN 234-2222, to request a copy.

Bellevue's land use reform effort underway

By Matthew A. Terry
Director of Bellevue's Department
of Community Development



In January 1993, the city of Bellevue began revising its Land Use Regulations and Development Standards. The city took on this

task for several reasons.

First, the city wants to foster development that meets city goals, particularly in the Central Business District, with its new urban city designation. Land use regulations and development standards will play a major role in our future success.

Second, the Growth Management Act mandates that zoning and development regulations be consistent with locally adopted GMA plans, and this effort will implement this state mandate.

Third, in an era of tight budgets, we want to ensure that our regulatory structure is as focused and efficient as possible, that our permit processing times are kept to a minimum, and that we have meaningful public involvement in land use decisions.

Finally, we want to examine the role that local land use regulations play in escalating housing costs, and ensure that all locally adopted land use controls are meeting their stated objectives.

The scope of this effort is broad. It includes Bellevue's land use regulations, transportation standards code (our concurrency ordinance), development standards, clearing and grading codes, flood plain and sanitation codes, and the role the State Environment Policy Act will play in the assessment of project impacts.

This effort has involved community outreach: 1) seeking ways to improve and focus public involvement processes; and 2) addressing concerns of the business community about duplicative and overlapping regulations.

Staff work is still underway, and proposals have been developed to:

- modify rules that inhibit redevelopment,
- more narrowly focus the conditional use process on those uses that need special attention,
- expand administrative decision-making and expand the authority of hearing examiners to make final decisions for the city,
- simplify the planned unit development process and work toward merger of the subdivision and PUD processes,

- focus design review on key issues and possibly exempt small projects with limited visibility from a public right-of-way,
- change our public involvement process to provide for more meaningful, early comments on development decisions, and
- consolidate appeals, so that citizens can focus their efforts around a single appeal process involving a final city council decision.

Information about this program may be obtained by calling Faith Lumsden of Bellevue's Department of Community Development at (206) 462-2724.

SEPA in the world of GMA



Mary Lynne Myer is working with local governments on SEPA/GMA issues.

In a time when many people are interested in regulatory reform, some are wondering about the ongoing relevance of the State Environmental Policy Act.

Will GMA requirements cover all the

requirements of SEPA? Do the two laws overlap so that one or the other should be changed? Won't critical areas protection ordinances be sufficient to ensure the environment is protected from the possible adverse consequences of inevitable growth and development? Won't GMA-based impact fees eliminate the need for mitigation under SEPA?

There is clearly some validity to these and other questions raised by the juxtaposition of 20 years of SEPA experience with the high expectations and promise of our new GMA. But each of these questions must be seen as a testable but still largely untested proposition.

Until more plans and associated development regulations are adopted under the goals and requirements of the GMA, and until these actions are given full analysis under SEPA, no one knows with certainty how the laws interact and how they should be changed, if at all.

The immediate challenge is to work collectively towards excellent plans, regulations, and associated SEPA analysis and disclosure. Towards that end, DCD has "borrowed" Mary Lynne Myer from the city of Renton to spend the next six months providing direct assistance to cities and counties throughout the state.

She will be helping jurisdictions define strategies for full compliance with SEPA procedural requirements and for capturing as much as possible the efficiencies, analytical power, and stronger environmental analysis that may be realized by integrating SEPA into the GMA planning process.

If you want to hear more about how other jurisdictions are coping with SEPA/GMA or if you want to share questions and comments, call Mary Lynne Myer at 206-753-1197, or SCAN 234-1197.

Energy Office publications and bulletin board

The Washington State Energy Office has the following publications available:

Energy and the Growth Management Act: Model Language for Comprehensive Plans.

Washington's Energy Strategy: An Invitation to Action.

Energy Aware Planning Guide.

Call WSEO at 206-956-2035 or 206-956-2043 to request a copy.

Another helpful energy publication is, ***Plugging People Into Power: An Energy Participation Handbook.***

Call the Northwest Conservation Act Coalition at 206-621-0094 to receive a copy.

The **Electric Ideas Clearinghouse** is a free electronic bulletin board service operated by WSEO for the Bonneville Power Administration and Western Area Power Administration. Once you have access to the Clearinghouse bulletin board, you can participate in a special interest group called, "Sustainability." Users include local governments, utilities, and state agencies. To learn more about the bulletin board, call 1-800-762-3319.

Small business group offers its perspective on regulatory reform

**By Gary Smith
Executive Director, Independent
Business Association**

Regulatory reform is one of the highest priorities for small businesses in Washington state.

Currently, to operate an "average" small business with employees, the owner must comply with 58 sets of regulations administered by 28 different federal, state, and local agencies. The rules and regulations are contained in a set of books and booklets which stack up to about 4-1/2 feet tall.

Government regulations often impose greater proportionate costs on small businesses than larger businesses.

Greater regulatory compliance can be achieved more quickly as a result of re-directing the state's regulatory implementation philosophy from command and control to a compliance partnership.

The Independent Business Association proposes a "compliance partnership regulatory implementation process" in which government regulators and regulated business work together to achieve voluntary compliance.

The current command and control regulatory implementation policy inhibits voluntary regulatory compliance. The compliance partnership encourages communications and cooperation and allows agency personnel to inspect more businesses and get more prompt compliance.

The compliance partnership system would make inspector consultants to a regulated business, as long as the business cooperated in good faith to voluntarily comply with the regulatory requirements.

On initial visits by an inspector, no citations would be issued and no fines or penalties assessed. Instead, the inspector would leave a list of compliance requirements and establish a reasonable period of time for the firm to come into compliance.

As long as the firm came into compliance within the time periods or demonstrated a sincere good faith effort to come into

compliance, there would be no citations, fines, or penalties.

The compliance partnership system has already proven itself successful in several regulatory situations in Washington.

The recent Department of Ecology "shop sweep" program that visited over 1,000 auto repair shops to consult with shop owners and managers on meeting environmental regulations received overwhelming support from the industry. A tremendous amount of work to change practices to voluntarily comply with the regulatory requirements is underway.

The IBA supports legislation to authorize and encourage every state agency to implement the "compliance partnership" approach to regulatory implementation as quickly as possible.

IBA also suggests:

- reviewing existing rules;
- reviewing new rules periodically;
- prohibiting state rules that are more stringent than federal rules;
- coordinating agency rules;
- making rules understandable;
- providing lists of rules affecting specific businesses;
- establishing the cost of regulations to small business and determining the costs of new regulations to them; and
- combining all existing regulations, if any, when a new regulation in an area is proposed.

Cases before state's growth hearings boards

Listed below are new cases or action on existing cases before the state's growth planning hearings boards.

Central Puget Sound

CASE NO. 92-3-0006 STATUS: DECISION 3/16/93; COMPLIANCE DECISION 9/16/93

James C. Gutschmidt vs. City of Mercer Island. Subject: Critical areas designations and regulations. Complaint for remedy and damages filed in Thurston County Superior Court 5/10/93 and 5/7/93 by petitioner and intervenor.

CASE NO. 92-3-0009 STATUS: DECISION 4/6/93; FINDING OF COMPLIANCE ISSUED 10/11/93

Cities of Poulsbo, Port Orchard, and Bremerton vs. Kitsap County. Subject: County-wide planning policies.

CASE NO. 93-3-0003 STATUS: DECISION ISSUED 9/7/93

Twin Falls Inc., Weyerhaeuser Real Estate Co., and Snohomish County Property Rights Alliance, and Darrell Harting vs. Snohomish County. Subject: County's adoption of forest land conservation plan and interim commercial forest and forest reserve designations and interim regulations.

The board concluded that: taking issues must be determined by a Superior Court; interim regulations may restrict land use rights but not actual physical uses; and the GMA does not impose specific notice or hearing requirements for adoption of interim regulations.

Appeals filed by Twin Falls Inc. 10/6/93 and Weyerhaeuser Real Estate Co. 10/27/93, both in Thurston County Superior Court.

CASE NO. 93-3-0005. STATUS: DECISION ISSUED 10/6/93. COMPLIANCE DEADLINE 2/11/94

City of Edmonds and City of Lynnwood vs. Snohomish County, 1000 Friends of Washington, Amicus. The board concluded: a major purpose for county-wide planning policies is to direct urban growth to urban areas to reduce sprawl; when the county allocates population growth to cities, it must be mindful of the cities' obligations as primary providers of urban services. The county cannot direct the specific manner in which cities regulate land use to accommodate growth.

The board ruled that policies addressing the provision of low-income and special needs housing, and goals for siting essential public facilities and developing compatible construction standards, comply with the GMA.

Appeal filed in Thurston County Superior Court by city of Lynnwood 11/2/93.

CASE NO. 93-3-0008 STATUS: DECISION ISSUED 10/25/93

Happy Valley Associates vs. King County. Subject: Subarea comprehensive plan and zoning amendments. Having found that the challenged actions were not taken pursuant to the authority and requirements of the GMA, the board concluded that it lacked jurisdiction to consider the merits of the case and dismissed the petitions for review.

CASE NO. 93-3-0009 STATUS: DISMISSED 11/8/93

Northgate Mall Partnership vs. City of Seattle. The petition alleged that Seattle's recently adopted plan for the Northgate subarea was subject to GMA requirements. The board found that because the Northgate Plan was not adopted under GMA authority, the board lacked jurisdiction to hear the appeal.

CASE NO. 93-3-0010 STATUS: HEARING 2/28/93

Association of Rural Residents of Kitsap County vs. Kitsap County. The petition requests a review of Kitsap County's interim urban growth area designations as they affect the area north of Kingston.

Western Washington

CASE NO. 92-2-0001 STATUS: DISMISSED BY COURT 9/27/93

Clark County Natural Resources Council, et. al., vs. Clark County. Subject: Wetlands ordinance. Dismissed in Thurston County Superior Court for failure to timely file with hearings board as well as court.

CASE NO. 93-2-0001 STATUS: DISMISSED FOR FAILURE TO TIMELY FILE 9/9/93

Whatcom Sand and Gravel Association vs. Whatcom County. Subject: Challenge to mineral resource designation. The board ruled petition should have occurred when resource land ordinance was adopted.

CASE NO. 93-2-0002 STATUS: HEARING 2/24/94

City of Port Angeles vs. Clallam County. The petition requests a review of Clallam County's interim urban growth area.

Eastern Washington

CASE NO. 93-1-0002 STATUS: DECISION 11/12/94

Merrill English and Project for Informed Citizens vs. Columbia County, 1000 Friends of Washington, Intervenor. Subject: Resource lands and critical areas. The board ruled the county's ordinance on resource lands and critical areas is not in compliance with the GMA. It was remanded to the county commissioners for reconsideration.

Environmental regulations: Are we getting what we pay for? What changes need to be made?

By Naki Stevens

Policy Director, People for Puget Sound

The environmental community in Washington has been pushing for regulatory reform — under another name — for years.

When we look at environmental regulations, we see laws and rules that were drafted to protect and clean up our environment that just haven't been implemented.

How else could we explain facts like these?

- 42 percent of Puget Sound's commercial shellfish beds are closed due to pollution, up from 20 percent just seven years ago;
- most of our state's waters that have been tested do not meet water quality standards;
- salmon runs continue to decline due to failed stream protection programs;

■ toxic chemicals in our waterways are causing fish cancers, gene mutations, and reproductive failure.

In short, our laws have not produced results in the environment, other than continuing pollution and loss of jobs that depend on a healthy environment.

We are working with the business community and the Governor's Task Force on Regulatory Reform to nail down areas where we agree changes could be made that will benefit both the environment and the business community.

As Gov. Mike Lowry stated in his executive order, any regulatory reform solutions must "... ensure continued protection of our environment." We couldn't agree more! But to accomplish this, the task force must address enforcement, implementation, and efficiencies.

We think there is plenty of room for improvement, and we're committed to working constructively with the task force.

There are probably many areas where efficiencies can be made in how regulations are implemented that will result in benefits to the environment and to the economy. For example, with so many streams and bays still polluted, couldn't we devise an enforcement scheme that includes more technical assistance, even-handed and predictable enforcement against permit violators, and incentives for compliance?

Everyone recognizes that our state's economy depends upon the health of our natural resources. It's time to make this more than just a slogan and get down to the hard job of fixing our regulatory programs so they really work.



■ Washington State

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